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MINISTRY OF LAW

New Delhi, the 27th June, 1958/Asadha 6, 1880 (Saka)

THE SUGAR EXPORT PROMOTION ORDINANCE, 1958

No. 5 OF 1958

Promulgated by the President in the Ninth Year of the Republic of India.

An Ordinance to provide for the export of sugar in the public interest and for the levy and collection in certain circumstances of an additional duty of excise on sugar produced in India.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Sugar Export Promotion Ordinance, 1958. Short title,
extent and
commencement.
- (2) It extends to the whole of India.
- (3) It shall come into force at once.

2. In this Ordinance, unless the context otherwise requires,— Definitions.

- (a) "export" means taking out of India by sea, land or air;

(b) "export agency" means any such agency as may be specified in this behalf under section 3, and when no such agency has been so specified, the Central Government;

(c) "export quota" means the export quota referred to in section 5;

(d) "factory" means any premises (including the precincts thereof) wherein sugar is being produced by the vacuum pan process;

(e) "owner"—

(i) with reference to any factory the possession of which has been transferred by sale, mortgage or otherwise, means the transferee so long as his right to possession subsists,

(ii) with reference to any factory for which an agent, by whatever name called, is employed, means the agent if, and in so far as, he has been duly authorised by the owner in that behalf, and

(iii) with reference to any factory the management of which has been taken over by any person or body of persons under the Industries (Development and Regulation) Act, 1951, means that person or body of persons;

65 of 1951.

(f) "sugar" means any form of sugar containing more than ninety per cent. of sucrose;

(g) "year" means the year beginning on the first day of May.

Export agency.

3. (1) For the purposes of this Ordinance, the Central Government may, by notification in the Official Gazette, specify as an export agency any company within the meaning of the Companies Act, 1956, or any body of persons established or recognised as a body corporate by or under any other law for the time being in force.

(2) Where any such company or other body corporate has been specified as an export agency, it shall be lawful for such agency to perform all or any of the functions of an export agency under this Ordinance, notwithstanding anything to the contrary contained in the memorandum or articles of association of the company or, as the case may be, the law applicable thereto.

Fixation of quantity of sugar for purposes of export.

4. (1) The Central Government may, by notification in the Official Gazette, fix from time to time the quantity of sugar which may be exported during any period, and, in fixing such quantity, the Central Government shall have regard to—

(a) the quantity of sugar available in India,

(b) the quantity of sugar which, in its opinion, would be reasonably required for consumption in India,

(c) the necessity for exporting sugar with a view to earning foreign exchange in the public interest.

(2) The power conferred by sub-section (1) shall be so exercised as to ensure that the quantity fixed under that sub-section for any year does not exceed in the aggregate fifteen per cent. of the quantity of sugar produced in India in the season ending with the month of October falling within that year.

5. The Central Government shall, by order in writing, apportion the quantity of sugar fixed from time to time for purposes of export under section 4 among the owners in proportion to the quantity of sugar produced, or likely to be produced, by them respectively during the season referred to in sub-section (2) of section 4, and such order shall be communicated to each of the owners, and the quantity so apportioned shall be deemed to be the export quota for the factory of that owner.

6. (1) Every owner shall, on demand by the export agency, deliver to it from time to time sugar produced in his factory in such quantities (not exceeding in the aggregate his export quota fixed for the factory or group of factories, as the case may be) of such grade, in such manner, within such time and at such place, as may be specified by the export agency in this behalf.

(2) When sugar has been delivered by an owner in accordance with the provisions of sub-section (1), the owner shall retain no rights in respect of such sugar except his right to receive payment therefor under section 9.

7. (1) Where sugar delivered by any owner falls short of the export quota fixed for it by any quantity (hereinafter referred to as the said quantity), there shall be levied and collected on so much of the sugar despatched from the factory for consumption in India as is equal to the said quantity, a duty of excise at the rate of seventeen rupees per maund.

(2) The duty of excise referred to in sub-section (1) shall be in addition to the duty of excise chargeable on sugar under any other law for the time being in force, and shall be paid by the owner to such authority as may be specified in the notice demanding the payment of duty and within such period not exceeding ninety days as may be specified in such notice.

(3) If any such owner does not pay the whole or any part of the duty payable by him within the period referred to in sub-section (2), he shall be liable to pay in respect of every period of thirty days or part thereof during which the default continues a penalty which may extend to ten per cent. of the duty outstanding from time to time, the penalty being adjudged in the same manner as the penalty to which a person is liable under the rules made under the Central Excises and Salt Act, 1944, is adjudged.

1 of 1944

(4) The provisions of the Central Excises and Salt Act, 1944, and the rules made thereunder, including those relating to refunds and exemptions from duty, shall, so far as may be, apply in relation to the levy and collection of the duty of excise or any other sum referred to in this section as they apply in relation to the levy and collection of the duty on sugar or other sums of money payable to the Central Government under that Act or the rules made thereunder.

1 of 1944

8. (1) The export agency shall take all practical measures to export sugar delivered to it under this Ordinance:

Provided that, if the export agency is of opinion that having regard to the quality of the sugar delivered to it by any owner, or to the expenses involved in transporting the sugar from one place to another, or to the delay likely to be involved in exporting it, or to the conditions prevailing in the markets for sugar, whether in or out of India, or to any other relevant circumstance, it is expedient so to do, the export agency may sell the whole or any part of the sugar in India and may, if it thinks fit, purchase such quantity of sugar as it may consider necessary for export at the appropriate time.

(2) For the purposes of sub-section (1), the export agency may itself sell sugar or permit the owner to sell the whole or any part of the export quota in his custody at a price approved by it on condition that the sale-proceeds are payable to it.

Payments to owners in respect of sugar delivered.

9. (1) The export agency shall, at such time as it thinks fit, make to the owners who have delivered sugar to it under this Ordinance, payments determined in accordance with the provisions hereinafter in this section contained.

(2) From the total sale-proceeds in respect of the quantity fixed for export under section 4 for any year, there shall be deducted the total expenditure incurred by the export agency in respect of the sugar, whether by way of administrative expenses or otherwise, and the balance shall be apportioned among the owners in proportion to the quantity of sugar delivered by them respectively during that year.

(3) In making any distribution under this section, the export agency shall make such adjustments as may be necessary having regard to the grade of sugar delivered by any owner, the adjustments being made on the basis of sugar of ISS-E-29 grade and with reference to the price differential schedule for different grades of sugar which the Central Government may, by notification in the Official Gazette, publish in this behalf.

(4) Notwithstanding anything contained in this section and subject to the rules which may be made in this behalf, the export agency may make on account payments to owners against documents of delivery of sugar furnished by them, and such payments shall be adjusted at the time of final payment.

10. The export agency specified under section 3 shall be bound, in the discharge of its functions under this Ordinance, by such general or special directions as the Central Government may give to it in writing. Power of Central Government to give directions.

11. The Central Government may, by notification in the Official Gazette, direct, that any power conferred on it by this Ordinance shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by such officer or authority subordinate to the Central Government as may be specified in the notification. Delegation of powers.

12. No suit, prosecution or other legal proceeding shall lie against the export agency or the Central Government or any of its officers for or in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule or order made thereunder. Protection of action taken under Ordinance.

13. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Ordinance. Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the submission by owners to such authority as may be specified in this behalf, of returns or reports or other information relating to the manufacture, sale, despatch, stocks and prices of sugar;

- (b) the manner in which the accounts of the export agency may be maintained and audited;
- (c) the inspection of records and registers of factories and the export agency;
- (d) the making of payments by the export agency to owners;
- (e) any other matter which is to be or may be prescribed under this Ordinance.

(3) In making a rule under this section, the Central Government may direct that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

RAJENDRA PRASAD,
President.

G. R. RAJAGOPAUL,
Addl. Secy. to the Govt. of India.

